

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PerdiemCo LLC

Plaintiff,

v.

Forward Thinking Systems LLC

Defendant.

Docket No. 2:15-cv-1220

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff PerdiemCo LLC (“PerDiem”) files this complaint against Forward Thinking Systems LLC (“Forward Thinking Systems” or “Defendant”) for infringement of U.S. Patent Nos. 8,223,012 (“the ’012 patent”), 8,493,207 (“the ’207 patent”), 8,717,166 (“the ’166 patent”), 9,003,499 (“the ’499 patent”), and 9,071,931 (“the ’931 patent”) (collectively, “patents-in-suit”), hereby alleges as follows:

Nature of the Suit

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

The Parties

2. PerDiem is a Texas limited liability company with its principal place of business at 505 E Travis Street, Suite 205, Marshall, TX 75670-4258.

3. Darrell Diem, the inventor of the patents-in-suit and Chief Technology Officer of PerDiem, served in the Air Force for four years as an electronics technician. After being

honorably discharged, Mr. Diem worked his way through college to earn degrees in physics and math from Marquette University. Mr. Diem also obtained a Masters of Business Administration from Michigan State, and a Masters of Arts in Pastoral Ministries from St. Thomas University, Miami, Florida. Mr. Diem has worked for Motorola, Harris Corporation, Time Domain, and other leading technology companies. Mr. Diem currently teaches computers to students at St. John the Baptist Catholic School, where he is a Deacon.

4. Mr. Diem conceived the inventions in the patents-in-suit when his daughter's car broke down on a long road trip. Mr. Diem wanted to convey location information for his daughter in an efficient way that would still protect her privacy. Mr. Diem's inventions, which have a wide range of significant applications, are widely used today.

5. Forward Thinking Systems is a corporation organized and existing under the laws of the state of New York, with its principal place of business at 575 Jericho Turnpike, Suite 300, Jericho, NY 11753. Forward Thinking Systems can be served with process at Forward Thinking Systems LLC, 250 Fulton Avenue, New Hyde Park, NY 11040.

6. Defendant makes, uses, sells, offers for sale, and/or imports products and services that infringe patents owned by PerDiem, including without limitation, Forward Thinking GPS and FTS BlackBox (collectively, "Accused Products"), either directly or indirectly through its subsidiaries or affiliates, to customers throughout the United States, including in this District.

Jurisdiction and Venue

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Defendant maintains continuous and systematic contacts within this District by selling and offering for sale products and services to customers within this District, and by offering for sale products and services that are used within this District.

9. This Court has specific personal jurisdiction over Defendant pursuant to due process and the Texas Long Arm Statute because Defendant, directly or through intermediaries, has conducted and conducts substantial business in this forum, including but not limited to: (i) engaging in at least part of the infringing acts alleged herein; (ii) purposefully and voluntarily placing one or more infringing products or services into the stream of commerce with the expectation that they will be purchased and/or used by consumers in this forum; and/or (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this District. Venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) for the reasons set forth above.

The Patents-In-Suit

10. The '012 patent, entitled "System and Method for Conveying Object Location Information," was duly and legally issued by the United States Patent and Trademark Office on July 17, 2012. A copy of the '012 patent is attached hereto as Exhibit A.

11. The '207 patent, entitled "Location Information Sharing System and Method for Conveying Location Information based on User Authorization," was duly and legally issued by the United States Patent and Trademark Office on July 23, 2013. A copy of the '207 patent is attached hereto as Exhibit B.

12. The '166 patent, entitled "System and Method for Conveying Location Information via a Plurality of Information-Sharing Environments" was duly and legally issued by

the United States Patent and Trademark Office on May 6, 2014. A copy of the '166 patent is attached hereto as Exhibit C.

13. The '499 patent, entitled "System and Method for Conveying Event Information Based on Varying Levels of Administrative Privilege Under Multiple Levels of Access Controls" was duly and legally issued by the United States Patent and Trademark Office on April 7, 2015. A copy of the '499 patent is attached hereto as Exhibit D.

14. The '931 patent, entitled "Location Tracking System with Interfaces for Setting Group Zones, Events and Alerts Based on Multiple Levels of Administrative Privileges" was duly and legally issued by the United States Patent and Trademark Office on June 30, 2015. A copy of the '931 patent is attached hereto as Exhibit E.

15. PerDiem is the exclusive owner of all rights, title, and interest in the '012 patent, the '207 patent, the '166 patent, the '499 patent, and the '931 patent, and has the right to bring this suit to recover damages for any current or past infringement of these patents.

16. The family of the patents-in-suit have been cited in other patents owned by many companies in a variety of industries including, Honeywell, Bank of America, Fatdoor, EMC Corporation, General Motors, Blackbird Technology, and Allure Energy.

Count I

Infringement of the '012 Patent

17. Paragraphs 1 through 16 are incorporated by reference as if fully stated herein.

18. The '012 patent is valid and enforceable.

19. Defendant has infringed, and continues to infringe, one or more claims of the '012 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the

United States, products and/or services encompassed by those claims, including for example, by making, using, selling, offering for sale, and/or importing the Accused Products.

20. Third parties, including Defendant's customers, have infringed, and continue to infringe, one or more claims of the '012 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, the Accused Products.

21. Defendant has knowledge and notice of the '012 patent and its infringement at least through the filing and service of the Complaint in this action.

22. Defendant has induced infringement, and continues to induce infringement, of one or more claims of the '012 patent under 35 U.S.C. § 271(b). Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '012 patent by selling or otherwise supplying the Accused Products with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States, and/or import into the United States the Accused Products for their intended purpose to infringe the '012 patent; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the Accused Products and/or the creation and dissemination of documentation and technical information related to the Accused Products.

23. Defendant has contributed to the infringement by third parties, including Defendant's customers, and continues to contribute to infringement by third parties, including Defendant's customers, of one or more claims of the '012 patent under 35 U.S.C. § 271(c), by selling and/or offering for sale in the United States and/or importing into the United States the Accused Products knowing that those products constitute a material part of the inventions of the '012 patent, knowing that those products are especially made or adapted to infringe the '012

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